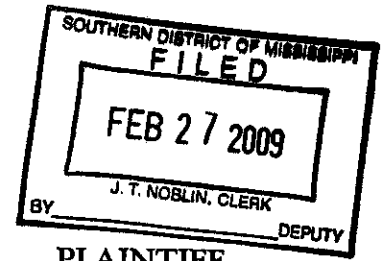


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



CRYSTAL JOHNSON

PLAINTIFF

VS.

CIVIL ACTION NO. 3:09cv121HTW-LRA

VALUE PLACE FRANCHISE SERVICES, LLC;
VALUE PLACE, LLC; VALUE PLACE
JACKSON-BYRAM; THE BELL GROUPS;
M&M PROPERTIES MANAGEMENT, INC.;
and UNIDENTIFIED JANE/JOHN DOES 1-10

DEFENDANTS

NOTICE OF REMOVAL

COME NOW the separate Defendants, Value Place Franchise Services, LLC and Value Place, LLC, through counsel, and file this their Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and in support thereof would show the Court the following:

1. The Plaintiff filed her Second Amended Complaint on or about November 20, 2008 in the Circuit Court of the First Judicial District of Hinds County, Mississippi and the separate Defendants filed their Answer on or about December 31, 2008.

2. This is a lawsuit filed by the Plaintiff seeking damages arising out of an attempted armed robbery of the Plaintiff while on the premises of Value Place in Byram, Mississippi. The Complaint alleges that the Plaintiff suffered "personal, professional and financial injuries" as a result of the incident. SEE SECOND AMENDED COMPLAINT, ¶¶ 11-12. The Complaint requested damages "in an amount sufficient to indemnify Plaintiff". SEE SECOND AMENDED COMPLAINT, p.

8.

3. Section 1332 of Title 28 provides that the "district courts shall have original

jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between- (1) citizens of different States ...”

4. On or about January 30, 2009, Plaintiff served her responses to the separate Defendants’ First Set of Requests for Admissions. Plaintiff admitted that she “is seeking damages exceeding \$75,000, exclusive of interest and costs, in this case.” A true and correct copy of the Plaintiff’s Answers to the separate Defendants’ First Set of Request for Admissions is attached hereto as **Exhibit A** and made a part hereof by reference.

5. Section 1446 further provides that “[i]f the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable ...” As such, this Notice of Removal is timely in all respects under the provisions of 28 U.S.C. § 1446(b).

6. According to the Complaint, the Plaintiff is a resident of Rankin County, Mississippi. See SECOND AMENDED COMPLAINT ¶ 1.

7. Defendant Value Place Franchise Services, LLC is a Kansas corporation with its principal place of business in Wichita, Kansas.

8. Defendant Value Place, LLC is a Delaware corporation with its principal place of business in Wichita, Kansas.

9. Defendant The Bell Groups is a Kansas entity with its principal place of business in Olathe, Kansas 66061.

10. Defendant M&M Properties Management, Inc., is a Kansas corporation with its

principal place of business in Overland Park, Kansas.

11. As set forth in the Second Amended Complaint, Unidentified John/Janes Does 1-10 are "unknown to the Plaintiff." See SECOND AMENDED COMPLAINT ¶7. These John and Jane Does are fictitious parties whose presence must be disregarded in determining diversity under 28 U.S.C. §1441(a): "The citizenship of defendants sued under fictitious names shall be disregarded." See also *Allen v. Tyson Foods, Inc.*, 153 F.Supp. 2d 886, 888 (S.D. Miss. 2001).

12. According to the Complaint, Defendant Value Place Jackson-Byram is a "local franchise of VALUE PLACE FRANCHISE SERVICES and/or VALUE PLACE, LLC and is the physical location where the incident took place. VALUE PLACE, JACKSON-BYRAM's address is 5590 I-55 Frontage Rd., Byram, MS 39272 or 39073 ..." See SECOND AMENDED COMPLAINT ¶ 4. However, Value Place Jackson-Byram does not exist according to the official records of the Secretary of State of Mississippi. A true and correct copy of the search results for Value Place Jackson-Bryam on the Mississippi Secretary of State's website is attached hereto as **Exhibit B** and made a part hereof by reference. As such, its citizenship should be disregarded for diversity purposes.

13. This action is now removable pursuant to 28 U.S.C. § 1441(a) and § 1446(b).

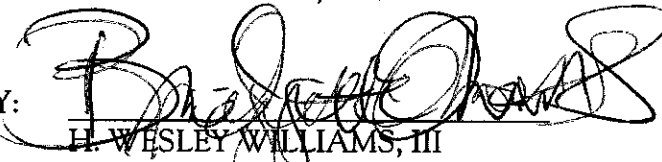
14. Attached hereto as **Exhibit C** is a certified copy of the state court file from the Circuit Court of the First Judicial District of Hinds County, which pursuant to under 28 U.S.C. §1446(a) includes a copy of all process, pleadings and orders served upon these Defendants.

WHEREFORE, PREMISES CONSIDERED, the Separate Defendants hereby file this their Notice of Removal and, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, remove this civil action from the docket of the Circuit Court of the First Judicial District of Hinds County,

Mississippi to the United States District Court for the Southern District of Mississippi, Jackson Division.

RESPECTFULLY SUBMITTED this the 27th day of February, 2009.

VALUE PLACE FRANCHISE SERVICES, LLC.
& VALUE PLACE, LLC.

BY: 
H. WESLEY WILLIAMS, III
BRIDGETTE T. THOMAS

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this date mailed via United States Mail, postage prepaid, a true and correct copy of the *Notice of Removal* to:

Melanie H. Morano, Esq.
MELANIE H. MORANO, PLLC
P. O. Box 2112
Ridgeland, MS 39158-2112

John D. Moore, Esq.
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Counsel for Plaintiff

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P. O. Box 1163
Jackson, MS 39215
Counsel for M & M Properties Management, Inc.

Honorable Barbara Dunn
Circuit Clerk of Hinds County, Mississippi
P.O. Box 327
Jackson, MS 39205
(Original Cause No. 251-08-698CIV)

This the 27th day of February, 2009.



H. WESLEY WILLIAMS, III
BRIDGETTE T. THOMAS